IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 33575 of 2007(V)

PETITIONER:

KAMALAMMA C.N., AGED 74,
W/O K.GOPINATHAN, CHAITHANYA, JAI NAGAR,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.B.S.SIVAJI
SRI.V.R.SWAMINATHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY,
MINISTRY OF LOCAL ADMINISTRATION DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. THE SECRETARY,
CORPORATION OF THIRUVANANTHAPURAM,
THIRUVANANTHAPURAM.

4. THE CHIEF TOWN PLANNER,
TOWN PLANNING OFFICE, KOTTARATHIL BUILDINGS,
PALAYAM, THIRUVANANTHAPURAM.

BY GOVT. PLEADER MR. K.J. MOHAMMED ANZAR
R3 BY STANDING COUNSEL SRI. N. NANDAKUMARA MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C)No. 33575 OF 2007

DATED THIS THE 17th December, 2007

J U D G M E N T

The grievance of the petitioner is that an application submitted by him for a permit for construction of a building was rejected by the Thiruvananthapuram Corporation on the reason that the plot comes within the Medical College Area Development Scheme as per the notified Town Planning Scheme. Though Sri. N.Nandakumara Menon, learned counsel for the Corporation sought for time to file a statement, I am not inclined to grant time since the issue is covered by Ext.P3 judgment under which the relief was given to the owner of a nearby property. In Ext.P3 I have referred to the judgment in **Padmini v. State of Kerala, (1999(3)K.L.T.465)** and in **Raju S.Jethmalani v. State of Maharashtra (2005)11 S.C.C.222**. For the reasons stated in Ext.P3, Ext.P2 notice impugned in this writ petition is liable to be quashed. Therefore, I quash Ext.P2 and direct the 3rd respondent Corporation to pass fresh orders on the building permit applications submitted by the petitioner favourably if the plan is otherwise in order on condition that the petitioners submit an undertaking in the form of an affidavit stating clearly that if a notification under Section 4(1) of the Land Acquisition Act is

promulgated within one year of issuance of the building permit, the petitioner will surrender the property including the building constructed without claiming any compensation for the building. It is made clear that even thereafter if the Corporation or the Government wants to acquire the property for any genuine public purpose, this judgment will not stand in the way doing so and under such an event the respondents will give adequate compensation to the petitioner. Fresh orders on the building permit application will be passed by the 3rd respondent Corporation at their earliest and at any rate within three weeks of receiving a copy of this judgment. This writ petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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